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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,130	09/17/2003	Philippe Queval	825-02-611	3468

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/664,130

Applicant(s)

QUEVAL ET AL.

Examiner

Melody M. Burch

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in France on 9/11/02. It is noted, however, that applicant has not filed a certified copy of the French application as required by 35 U.S.C. 119(b).
2. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in France on 9/11/02. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

### ***Drawings***

3. Figure 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Examiner notes that element 14 is described in the specification as being a "conventional bleed screw". Clarification is required.

***Specification***

4. The disclosure is objected to because of the following informalities: The specification fails to include the headings particularly to US Patent format such as "Summary of the Invention", "Brief Description of Drawings", etc.

Appropriate correction is required.

***Claim Objections***

5. Claim 4 is objected to because of the following informalities: element number "(1)" is used in line 3 of claim 4 to represent cylinder but is used in line 2 of claim 1 to represent "apparatus". Also the phrase "and participate" in line 3 from the bottom of claim 4 should be changed to --and participates-- for grammatical purposes. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 3, 4, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 3. The phrase "its accommodating hole" in line 3 is indefinite. It is unclear to the Examiner as to which component "its" refers to.

Re: claim 4. The phrase "said hydraulic receiver" in lines 1-2 lacks proper antecedent basis.

Art Unit: 3683

Re: claims 4 and 7. The phrase "the accommodating hole" first claimed in line 4 of claim 4 lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 4-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4318460 to Kosinski.

Re: claim 1. Kosinski shows in figure 2 a method for filling with liquid, a hydraulic apparatus with a circuit connected to element 28, comprising an air bleed orifice shown in the area of element 50 allowing the apparatus and the circuit to be bled manually via the adjustment of element 52, characterized in that the bleed orifice is sealed closed by a solid set screw 52 in that sufficient vacuum is pulled in the apparatus and in the circuit by drawing air through a withdrawing orifice shown below the lead lines of element numbers 16 and 26 (particularly through portions 36 of the withdrawing orifice) and in that the apparatus is filled with liquid from the same withdrawing orifice (via portion 26 of the orifice).

Re: claim 5. Kosinski shows in figure 2 a hydraulic apparatus comprising an air bleed orifice 50 filled with liquid characterized in that the air bleed orifice is plugged by a solid set screw 52.

Re: claims 6 and 8. Kosinski shows in figure 2 the limitation wherein in that the hydraulic apparatus consists of a vehicle drum brake wheel cylinder (a disk brake caliper) as described in col. 1 lines 59-60.

Re: claim 10. Kosinski shows in figure 2 the limitation in that the hydraulic apparatus is a drum brake wheel cylinder as described in col. 1 lines 59-60 having an additional discharge orifice 60 that can be opened by partial unscrewing of the set screw for a manual bleed operation.

Re: claim 1. In an alternate interpretation Kosinski shows in figure 2 a method for filling with liquid, a hydraulic apparatus with a circuit connected to element 28, comprising an air bleed orifice in the area of element 24 allowing the apparatus and the circuit to be bled manually, characterized in that the bleed orifice is sealed closed by a solid set screw 22,74 in that sufficient vacuum is pulled in the apparatus and in the circuit by drawing air through a withdrawing orifice shown below the lead lines of element numbers 16 and 26 (particularly through portions 36 of the withdrawing orifice) and in that the apparatus is filled with liquid from the same withdrawing orifice (via portion 26 of the orifice).

Re: claims 4 and 7. In the alternate interpretation Kosinski shows in figure 2 the limitation wherein the hydraulic receiver consisting of a drum brake wheel cylinder as disclosed in col. 1 lines 59-60 characterized in that the set screw, when tightened protrudes from the accommodating hole by just enough distance to collaborate with a plate 40 supporting the cylinder in the area of element 70 and participate in preventing the cylinder from rotating relative to the plate.

Re: claim 5. In the alternate interpretation Kosinski shows in figure 2 an air bleed orifice shown in the area below the lead lines of numbers 16 and 26 filled with liquid characterized in that the air bleed orifice is plugged by a solid set screw 22,74.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kosinski.

Kosinski describes the invention substantially as set forth above including the limitation of the solid set screw being a non-circular socket cap head screw, but does not include the limitation of the non-circular portion specifically being a hexagon. In *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) the court held that the configuration of a claimed object was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration is significant. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the non-circular head of the set screw to have been hexagonal in order to facilitate the turning of the screw with particular tools.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kosinski in view of JP-8320393 (JP'393).

Kosinski describes the invention substantially as set forth above, but does not include the limitation of the set screw being fully housed in its accommodating hole when the screw is tightened.

JP'393 teaches in figure 4 the use of a screw being fully housed in its accommodating hole when the screw is tightened such that the screw does not protrude beyond the visible contour as shown.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the hole of Kosinski in which the set screw is placed to have been a blind screw hole such that the screw did not protrude beyond the visible contour, as taught by JP'393, in order to provide a means of hiding the set screw to help to prevent inadvertent bleeding.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 5853071, 5816281, and 5713473 and DE-3330801 teach similar bleed devices for a braking devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 703-308-0830. The fax phone



Art Unit: 3683

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*mmb*  
mmb

November 22, 2004

*Melody M. Burch*  
11/22/04